

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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KEVIN KENNEDY,

Petitioner,

v.

WARDEN BACA et. al.,

Respondents.

Case No. 3:14-cv-00493-MMD-WGC

ORDER

Petitioner has submitted an application to proceed *in forma pauperis* (dkt. no. 1) and a petition for a writ of habeas corpus. The Court finds that petitioner is unable to pay the filing fee.

Petitioner has used a form for a petition pursuant to 28 U.S.C. § 2241. This is the incorrect form. Petitioner is in custody pursuant to a judgment of conviction of a state court. Even though he is challenging the forfeiture of credits toward an earlier release from prison, and not the validity of the conviction itself, 28 U.S.C. § 2254, and its procedural requirements, govern this action. The form that petitioner used does not contain all the information that the Court needs. Petitioner will need to submit an amended petition pursuant to 28 U.S.C. § 2254 on the Court's form.

It is therefore ordered that the application to proceed *in forma pauperis* (dkt. no. 1) is granted. Petitioner need not pay the filing fee of five dollars (\$5.00).

1 It is further ordered that the Clerk of the Court shall file the petition for a writ of  
2 habeas corpus.


3 It is further ordered that the Clerk of the Court shall send petitioner a petition for a  
4 writ of habeas corpus pursuant to 28 U.S.C. § 2254 form with instructions. Petitioner  
5 shall have thirty (30) days from the date that this order is entered in which to file an  
6 amended petition. Neither the foregoing deadline nor any extension thereof signifies or  
7 will signify any implied finding of a basis for tolling during the time period established.  
8 Petitioner at all times remains responsible for calculating the running of the federal  
9 limitation period and timely asserting claims. Failure to comply with this order will result  
10 in the dismissal of this action.

11 It is further ordered that petitioner shall clearly title the amended petition as such  
12 by placing the word "Amended" immediately above "Petition for a Writ of Habeas  
13 Corpus Pursuant to 28 U.S.C. § 2254" on page 1 in the caption, and petitioner shall  
14 place the docket number, 3:14-cv-00493-MMD-WGC, above the word "Amended."

15 It is further ordered that the Clerk of the Court shall add Catherine Cortez Masto,  
16 Attorney General for the State of Nevada, as counsel for respondents.

17 It is further ordered that the Clerk of the Court shall electronically serve upon  
18 respondents a copy of the petition and this order. Respondents' counsel shall enter a  
19 notice of appearance herein within twenty (20) days of entry of this order, but no further  
20 response shall be required from respondents until further order of the Court.

21 DATED THIS 21<sup>st</sup> day of November 2014.

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25 MIRANDA M. DU  
26 UNITED STATES DISTRICT JUDGE  
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